

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 29455 of 2005(F)

PETITIONER:

A.RAVEENDRANATHA PAI, SALES ASSISTANT
(RTD), THE COCHIN CONSUMEERS CO-OPERATIVE SOCIETY
LIMITED NO.3.100, KOCHI 2, RESIDING AT CC 9/1281,
L.G.PAI ROAD, KOCHI 2.

BY ADV. SRI.GOPAKUMAR R.THALIYAL
SRI.JUBYRAJ.A.P

RESPONDENTS:

1. KERALA STATE CO-OPERATIVE EMPLOYEES
PENSION BOARD, TC 28/2781, RAJASREE,
CHETTIKULANGARA, THIRUVANANTHAPURAM 1,
REPRESENTED BY ITS SECRETARY.

2. THE COCHIN CONSUMERS CO-OPERATIVE
SOCIETY LIMITED NO.E.100, KOCHI 2,
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.T.R.HARIKUMAR, SC,KSCEPB
SRI.A.JAYASANKAR FOR R2
SRI.MANU GOVIND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1- TRUE COPY OF THE APPOINTMENT ORDER ISSUED TO THE PETITIONER DATED 29.7.1972
- EXT.P2- TRUE COPY OF THE NOTICE ISSUED TO THE 1ST RESPONDENT DATED 15.12.2004
- EXT.P3- TRUE COPY OF THE NOTICE ISSUED TO THE 1ST RESPONDENT DATED 9.2.2005
- EXT.P4- TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 1.4.2005
- EXT.P5- TRUE COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN O.P.19426/2002 DATED 6.6.2003.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 29455/2005

Dated this the 11th day of January, 2007

JUDGMENT

The writ petitioner was the employee of the second respondent, Society. He retired from service on 30.9.2001. Except granting a provisional pension, the first respondent, Pension Board, had not finalised and paid the pension, due to him. Hence this writ petition.

2. I heard the arguments advanced by Sri.T.R. Harikumar for the first respondent and Sri.A Jayasankar for the second respondent, along with the learned counsel for the writ petitioner.

3. It is submitted that a dispute is raised regarding the amount to be paid by the second respondent, Society, to the first respondent. Because of the same, finalisation of the pension, in respect of the writ petitioner, is still pending. The counsel for the first respondent, however, submits that 46% of the contribution had been made by the second respondent and, therefore, pension had been calculated basing on such remittance. It is further submitted by him that after

the entire contribution is made by the second respondent, the first respondent shall calculate the pension due to the writ petitioner, at the earliest.

4. In the above facts situation, I direct the respondents 1 and 2 to resolve their disputes, if any, regarding the amount of remittance to be made by the second respondent to the first respondent, relating to the writ petitioner, within one month from the date of receipt of a copy of this judgment. The second respondent shall remit the amount due to the first respondent immediately thereafter, failing which, the first respondent shall proceed against the second respondent and realise the same. However, the final pension due to the writ petitioner, as per the entitlements, shall be paid within two months from the date of resolving the dispute, between the respondents 1 and 2, as directed above, without waiting for the remittance of the amount by the Society.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

The learned counsel for the first respondent submits that the full amounts, due from the second respondent, Society, had not been remitted to the first respondent. Therefore, final pension had not been calculated. The provisional pension granted was depending upon the ratio of amount remitted by the second respondent. Though the service is complete, there is no representation from the second respondent, Society.

2. There was a direction on 31.10.2006 to the second respondent, to file a statement why the second respondent was not remitting the entire contribution in the name of the writ petitioner to the first respondent. So far no statement had been filed.

3. When the matter came up for consideration on 1.12.2006, there was no representation. The case had been adjourned on a number of occasions.

4. When the matter came up today, there is no representation from the second respondent. The learned counsel for the first respondent reiterated his submission that the first respondent is prepared to pass the final pension, in favour of the writ petitioner, provided the second respondent remits back the entire amounts due towards the sanction of pension to the first respondent.

In such circumstances, post the petition for disposal on 4.1.2007.

**J.M.JAMES
JUDGE**

mrCS